



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAR 20 2007

Lawrence J. Tabas, Esq.
Obermayer Rebmann Maxwell & Hippel, LLP
One Penn Center, 19th Floor
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Philadelphia, PA 19103-1895

RE: MUR 5780
Republican Federal Committee of
Pennsylvania and Patricia Poprik, in
her official capacity as treasurer

Dear Mr. Tabas:

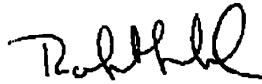
On August 8, 2006, the Federal Election Commission (the "Commission") notified your clients, the Republican Federal Committee of Pennsylvania and Patricia Poprik, in her official capacity as treasurer, of a complaint alleging that your clients violated the Federal Election Campaign Act of 1971, as amended, and provided your clients with a copy of the complaint.

After reviewing the allegations contained in the complaint, your clients' response, and publicly available information, the Commission on March 6, 2007, found reason to believe that the Republican Federal Committee of Pennsylvania and Patricia Poprik, in her official capacity as treasurer, violated 11 C.F.R. § 102.17(c)(1)-(2). Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. We look forward to your response.

Sincerely,



Robert D. Lenhard
Chairman

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Republican Federal Committee of
Pennsylvania and Patricia Poprik,
in her official capacity as treasurer

MUR: 5780

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by William R. Caroselli. See 2 U.S.C. § 437g(a)(1). The complaint asserts the Republican Federal Committee of Pennsylvania and a candidate's authorized Committee, Santorum 2006, held a joint fundraising event on June 14, 2005, but failed to establish a joint fundraising committee or representative committee. See 11 C.F.R. § 102.17(c).

II. FACTUAL AND LEGAL ANALYSIS

On June 14, 2005, Hilarie and Mitchell Morgan hosted a fundraising event for Senator Rick Santorum and the Republican Federal Committee of Pennsylvania ("RFCP") at their private residence in Bryn Mawr, Pennsylvania. Santorum 2006 and the RFCP each sent out separate invitations for the luncheon reception, and claim that despite the same date, location, timing and guest speaker, each committee held its own separate event.

The separate invitations sent out by Santorum 2006 and the RFCP appear to be similar in wording and almost identical in layout. The Santorum 2006 invitation states "Hilarie and Mitchell Morgan cordially invite you to join them in welcoming President George W. Bush in honor of U.S. Senator Rick Santorum." The invitation distributed by the RFCP states "Hilarie and Mitchell Morgan, on behalf of the Pennsylvania GOP, cordially invite you to join us in welcoming our special guests, President George W. Bush and Senator Rick Santorum." Each

invitation specifies the date of the event as June 14, 2005 with a luncheon reception from 11 a.m. to 1 p.m., and each invitation offers a photo opportunity with the President for \$10,000.¹ The Santorum 2006 invitation also offers a private luncheon reception for a \$1,000 contribution, and a general luncheon reception was \$500 per person or couple. Each invitation packet also contains the names of individuals and couples designated as "Co-Chairmen" of the event—a list of 55 on the Santorum 2006 invitation and a list of 36 on the RFCP's invitation. Fifteen of the "co-chairmen" listed on the Santorum 2006 invitation were also listed as "co-chairmen" in the RFCP's invitation.

At the event itself, President Bush reportedly made one 15-minute speech to all fundraiser attendees who donated less than \$10,000, regardless of whether they had contributed to Santorum 2006 or the RFCP. These attendees were reportedly gathered in one central location for this speech. See Carrie Budoff and Marc Schogol, *A Main Line Gusher for Bush*, PHILADELPHIA INQUIRER, June 15, 2006. Likewise, all donors who qualified for the photo opportunity with the President reportedly gathered in another area of the house, regardless of whether they had donated to Santorum 2006 or the RFCP. See *id.*

Disclosure reports filed by Santorum 2006 and the RFCP indicate that each committee disbursed funds in connection with the June 14th event and that the committees may have shared some of the expenses related to the event. For example, it appears that each made disbursements

¹ For the photo opportunity, the RFCP invitation solicited "\$10,000 per person or couple" and the Santorum 2006 invitation specified "\$10,000 raised per person or couple."

to some of the same vendors in connection with the event.² However, other expenses associated with the fundraising event appear to have been paid exclusively by only one of the two committees. For example, a spokesman for Santorum 2006 publicly stated that Santorum 2006 would reimburse the President's travel costs associated with attending the event, while the RFCP's disclosure reports indicate that it paid for the motorcade signage from the airport to the residence where the event was held as well as identity badges for attendees.³ See Carrie Budoff, *Bush in Bryn Mawr for Santorum Luncheon*, PHILADELPHIA INQUIRER, June 14, 2005; 2005 August Monthly Report, Republican Federal Committee of Pennsylvania.

Separate invitations notwithstanding, it appears that Santorum 2006 and the RFCP may have coordinated the distribution of the proceeds from the event. Santorum's media consultant, John Brabender, reportedly stated that of the \$1.7 million raised at the fundraiser, \$1.1 million would go to the Santorum campaign, and \$600,000 would be deposited into the federal account of the Republican State Committee. See Carrie Budoff and Marc Schogol, *A Main Line Gusher for Bush*, PHILADELPHIA INQUIRER, June 15, 2006; Brett Lieberman, *Bush Appearance Signals Significance of '06 Senate Race*, THE PATRIOT NEWS, June 5, 2005. One source indicated that proceeds from those who contributed \$10,000 in order to have a photo opportunity with President Bush were deposited into the RFCP account. See Carrie Budoff, *Bush in Bryn Mawr for Santorum Luncheon*, PHILADELPHIA INQUIRER, June 14, 2005. After the event, Santorum told

² Santorum 2006 and the RFCP each disclosed disbursements to Rosen Catering and Alber-Haff Parking Services in close proximity to the June 14, 2005 fundraiser. Santorum 2006 disbursed \$720 to Alber-Haff for "fundraising event costs" on July 1, 2005, and RFCP disbursed the same amount, \$720, to Alber-Haff on July 13, 2005 for "Generic Party Fundraising - parking." Similarly, Santorum 2006 disbursed \$30,000 to Rosen Catering for "fundraising event costs" on June 10, 2005; RFCP disbursed \$15,143.69 to Rosen Catering on July 7, 2005 for "Generic Party Fundraising - catering." See 2005 August Monthly Report, Schedule B, Republican Federal Committee of Pennsylvania; 2005 July Quarterly Report, Schedule B, Santorum 2006 Committee.

³ RFCP made disbursements to Conlin's Digital Print & Copy Center for "Motorcade Signs" and "Generic Party Fundraising - Identity Badges." See 2005 August Monthly Report, Republican Federal Committee of Pennsylvania.

the media that "the event netted more than \$1.5 million," making no mention of two separate events. See Edwin Chen, *Bush Hopes Fundraising Pays Off*, LOS ANGELES TIMES, June 15, 2006.

The complaint alleges that this was a joint fundraising event and that both participating committees violated 11 C.F.R. § 102.17 by failing to follow any of the Commission's regulations regarding joint fundraising. In response to the complaint, the respondents aver that the fundraiser was "two wholly separate events, held on the same day within a time period immediately adjacent to each other" and that all logistics, costs, solicitations, locations, and arrangements were managed separately, and all receipts and disbursements were kept separate.

The Commission's joint fundraising regulations at 11 C.F.R. § 102.17(a) allow political committees to engage in joint fundraising efforts, but to do so, they must either establish a separate committee or designate a participating committee as the fundraising representative. See 11 C.F.R. § 102.17(a)(1)(i). Participants must enter into a written agreement that identifies the fundraising representative and states the formula for the allocation of fundraising proceeds. See 11 C.F.R. § 102.17(c)(1). The fundraising representative must retain a copy of the agreement for a period of three years and make it available to the Commission upon request. *Id.*

The regulations also provide that a joint fundraising notice shall be included with every solicitation for contributions. 11 C.F.R. § 102.17(c)(2). The notice shall include the names of all participating committees; the allocation formula to be used; a notice that, notwithstanding the stated allocation formula, contributors may designate that their contributions be allocated differently; and a notice that the allocation formula may change if a contributor makes a contribution which would exceed the amount that a contributor may give to a participant. 11 C.F.R. § 102.17(c)(2)(i).

Furthermore, joint fundraising participants or the fundraising representative shall establish a separate depository account to be used solely for the receipt and disbursement of the joint fundraising proceeds. 11 C.F.R. § 102.17(c)(3)(i). Gross proceeds as well as expenses and the distribution of net proceeds from joint fundraising efforts are to be allocated according to the formula provided in the written agreement. See 11 C.F.R. § 102.17(c)(6)-(7).

In this matter, it appears that the June 14, 2005 event in Bryn Mawr constitutes a joint fundraiser under the Commission's regulations, and triggers the requirements of 11 C.F.R. § 102.17. The event(s) in question occurred on the same date, at the same time, and at the same private residence. While respondents argue that both committees kept all expenses related to the event separate, the facts before us demonstrate otherwise. The available information indicates that the RFCP and Santorum 2006 may have coordinated disbursements for the event together and allocated certain expenses without publishing their allocation formula. For example, it appears that each committee used the same caterer and parking service and shared the costs. In addition, the available evidence suggests that one committee paid for the President's travel costs, although the disbursement was made for the benefit of both committees. Furthermore, as previously discussed, it appears that the committees coordinated how the contributions raised in connection with the event would be distributed between the two committees. According to one source, donations of \$10,000, which exceed the contribution limit for Santorum 2006 were deposited into the account of the RFCP.

It appears that the June 14, 2005 event in Bryn Mawr was a joint fundraiser, and Santorum 2006 and the RFCP apparently failed to follow the Commission's regulations for conducting joint fundraisers. They apparently did not establish or designate a joint fundraising committee, did not enter into a written agreement or determine an allocation formula, and did not

Factual and Legal Analysis
MUR 5780

allocate receipts and expenditures according to an established formula. See 11 C.F.R.

§ 102.17(c)(1)-(2). Therefore, there is reason to believe that the Republican Federal Committee of Pennsylvania and Patricia Poprik, in her official capacity as treasurer, violated 11 C.F.R.

§ 102.17(c).

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